S.B. CIVIL MISC. APPEAL NO. 1078/2006
(Smt.Ganesh Bai & ors. Vs. Dharmendra Kumar & ors.)

DATED : 08.08.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sandeep Sarupariya for the appellants.

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By way of this appeal against the award dated 22.09.2004 made by the Motor Accidents Claims Tribunal, Rajsamand in Claim Case No.264/2003; the claimant-appellants seek enhancement over the compensation amount of Rs.2,89,200/- awarded by the Tribunal on account of accidental death of Lahar Puri, husband of the appellant No.1 and father of appellants No.2 and 3.

After finding the accident to have occurred on the deceased being hit by tractor bearing registration No.RJ 30 R 2470 belonging to non-applicants No.2 and 3 and driven by non-applicant No.1, while taking up quantification of compensation, the Tribunal noticed the averments of the claimants about the age of deceased at 42 years and his monthly income at Rs.6,000/-;and so also his age stated at 45 years in the post-mortem report and the statement of wife of the deceased about his income at Rs.4,000/- per month and

then additional income at 5000 to 6000 Rupees. The Tribunal noticed that the person with whom the deceased was serving was not produced in evidence and the other income like that from cattles retaining itself, considered it appropriate to take income of the deceased at Rs.2,200/- per month and applied multiplier of 15 and assessed pecuniary loss at Rs.2,64,000/- after deducting one-third on his personal expenditure. The Tribunal further awarded Rs.20,000/- towards non-pecuniary loss, Rs.4,000/- for funeral expenses and Rs.1,200/- towards costs of litigation and allowed interest at the rate of 9% per annum on the total award amount of Rs.2,89,200/-.

Learned counsel for the appellants strenuously contended that the certificate of salary income of the deceased at Rs.4,000/- per month ought to have been accepted and the Tribunal has erred in assessing income of the deceased only at Rs.2,200/- per month. The submissions are not well founded. The Tribunal has rightly refused to accept such salary income for want of reasonable proof and particularly when the alleged employer of the deceased has not been produced in evidence.

Having considered the award in its totality, this Court is satisfied that the Tribunal has awarded just compensation on reasonable estimate of income and by application of

reasonable multiplier of 15 and there is no scope for upward revision in the award. Interest has been awarded at 9% per annum that too cannot be said to be on the lower side.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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